
Public Notice

**NWP Issuance
Request for Comments**

**Date:
Published: July 21, 1999**

**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District CELRB-CO-R RE: 98-06(3) Section: OH 10 and 404

**REQUEST FOR COMMENTS ON
PROPOSED REGIONAL CONDITIONS FOR
NATIONWIDE PERMITS PROPOSED ON JULY 21, 1999
For the State of Ohio**

On 21 July 1999, the Corps published a notice in Part III of the Federal Register announcing a revised proposal to issue 5 new Nationwide Permits (NWP) and modify 6 existing NWPs to replace NWP 26, the expiration date of which has been extended to 30 December 1999, or the effective date of the new and modified NWPs, whichever comes first. In this Federal Register notice, the Corps also proposes to add 3 new general conditions to the NWPs to increase protection of the aquatic environment. The proposed NWPs are activity-specific and authorize certain activities in non-tidal waters of the United States that have minimal adverse effects on the aquatic environment. The proposed NWP general conditions will restrict or prohibit the use of certain NWPs in waters of the United States within 100-year floodplains, impaired waters, and designated critical resource waters.

The Federal Register notice also describes a revised process and schedule for issuing and implementing the draft new and modified NWPs, including regional conditions. Concurrent with this Federal Register notice, Corps districts will be announcing draft Corps regional conditions for these NWPs for public comment. When the new and modified NWPs are issued, the final Corps regional conditions will be issued at the same time so that the States and Tribes can make their Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 60 days of the Federal Register notice announcing the issuance of the new and modified NWPs. After this 60 day period, the new and modified NWPs and Corps regional conditions will become effective.

Concurrent with the 21 July 1999 Federal Register notice, the Buffalo District has posted its draft Corps regional conditions for the draft new and modified NWPs on its Internet home page. The URL address for the draft Corps regional conditions is:

<http://www.lrb.usace.army.mil/orgs/offices/form.htm>

Regional conditions will provide additional protection for the aquatic environment, by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions will help ensure protection of high value waters within the District. Interested parties who do not have Internet access can contact Kathleen M. Ryan at 716-879-4392 for a copy of the draft Corps regional conditions for the Ohio Section of the Buffalo District.

National Issues Concerning the Proposed NWPs: This is notice of the public's opportunity to comment on the draft new and modified NWPs and general conditions. Comments concerning these NWPs should be sent to the Office of the Chief of Engineers, Regulatory Branch (ATTN: CECW-OR), Washington, D.C. 20314-1000. Comments on the draft new and modified NWPs are due by 7 September 1999.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning: This is notice of the public's opportunity to comment on the draft Corps regional

conditions for the draft new and modified NWP's.

Comments concerning the draft Corps regional conditions for the state of Ohio should be sent to Ms. Kathleen M. Ryan, U.S. Army Corps of Engineers, Buffalo District, Regulatory Branch, 1776 Niagara Street, Buffalo, NY 14207-3199 ; Telephone: 716-879-4392; e-mail: Kathleen.M.Ryan@usace.army.mil

Comments are due by 7 September 1999. Similar public notices concerning draft regional conditions in other regions or States are being published concurrently by other division or district offices.

The 21 July 1999 Federal Register notice is available for viewing at the Buffalo District Regulatory Homepage at <http://www.lrb.usace.army.mil/orgs/offices/form.htm> or on the Internet at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>. As an alternate, World Wide Web users can access the Federal Register through the U.S. Government Printing Office at http://www.access.gpo.gov/su_docs/aces/aaces002.html.

The Corps will prepare final decision documents when the new and modified NWP's are issued. These documents will be available when the issuance of the new and modified NWP's is announced in a future Federal Register notice. Furthermore, the NWP decision documents will be supplemented by Division Engineers to address decisions concerning regional conditioning of the NWP's.

Enclosed is an index of the draft new and modified NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through the Corps Home Page or the Federal Register.

Questions pertaining to the regional conditioning of the proposed Nationwide permits described in this notice should be directed to Ms. Kathleen M. Ryan, who can be contacted by calling (716) 879-4392, or by e-mail at: Kathleen.M.Ryan@usace.army.mil

Paul G. Leuchner
Chief, Regulatory Branch

Index of Nationwide Permits, Conditions, Further Information, and Definitions

Draft New and Modified Nationwide Permits

3. Maintenance
7. Outfall Structures and Maintenance
12. Utility Line Activities
14. Linear Transportation Crossings
27. Stream and Wetland Restoration Activities
39. Residential, Commercial, and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities

Nationwide Permit General Conditions

1. Navigation
2. Proper Maintenance
3. Soil Erosion and Sediment Controls
4. Aquatic Life Movements
5. Equipment
6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification
14. Compliance Certification
15. Use of Multiple Nationwide Permits.
16. Water Supply Intakes
17. Shellfish Beds
18. Suitable Material
19. Mitigation
20. Spawning Areas
21. Management of Water Flows
22. Adverse Effects from Impoundments
23. Waterfowl Breeding Areas
24. Removal of Temporary Fills
25. Designated Critical Resource Waters
26. Impaired Waters
27. Fills Within the 100-year Floodplain

Further Information

Definitions

Aquatic Bench
Best Management Practices
Compensatory mitigation
Creation
Drainage ditch
Enhancement
Ephemeral stream
Farm tract
Independent utility
Intermittent stream
Loss of waters of the United States
Non-tidal wetland
Open water
Perennial stream
Permanent above-grade fill
Playa
Prairie pothole
Preservation
Project area
Restoration
Riffle and pool complex
Single and complete project

Stormwater management
Stormwater management facilities
Stream bed
Stream channelization
Tidal wetland
Vegetated shallows
Vernal pool
Waterbody

**Proposed Regional Conditions for Nationwide Permits in
Ohio**

The Buffalo District, in conjunction with Huntington, Pittsburgh, and Louisville Districts, is proposing to incorporate the following regional conditions into the proposed new and modified Nationwide Permits (NWP). These regional conditions are intended to supplement the NWP terms and conditions published in the Federal Register on 21 July 1999. These regional conditions would be applicable only in the state of Ohio.

3. *Maintenance.*

- * ii. Limited to 50 feet upstream and/or downstream of structure
- *iii. Notification is required for all work in waters of the U.S.

12. *Utility Activities.*

- * ii. Notification is required for all work in waters of the U.S.
- *iii. Notification is required for all stream work (perennial, intermittent, and ephemeral)
- * Section 10 waters and wetlands adjacent to Section 10 waters are excluded from ii, iii, and iv.

14. *Linear Transportation Crossings.*

- * a. (1), (2), (3) Notification is required for activities in Section 10 waters and wetlands adjacent to Section 10 waters.
- * a. (1), (2), (3) Notification is required for stream impacts greater than 200 linear feet.

27. *Stream and Wetland Restoration Activities.*

- * Notification is required for all work in waters of the U.S.

39. *Residential, Commercial, and Institutional Developments.*

- * Notification is required for ephemeral stream impacts greater than 200 linear feet.
- * Section 10 waters and wetlands adjacent to Section 10 waters are excluded.

40. *Agricultural Activities.*

- * Perennial streams are excluded.
- * Notification is required for impacts greater than 200 linear feet in waters of the U.S.

41. *Reshaping Existing Drainage Ditches.*

- * Notification is required for all impacts.
- * Sidecasting of excess material into waters of the U.S., including special aquatic sites is not authorized.

42. *Recreational Facilities.*

- * Perennial streams are excluded.
- * Notification is required for all stream impacts, including ephemeral stream impacts greater than 200 linear feet.
- * All notifications require a mitigation proposal that will offset the loss of waters of the U.S.

43. *Stormwater Management Facilities.*

* Notification is required for all intermittent and perennial stream impacts, including all ephemeral stream impacts greater than 200 linear feet.

* All notifications must include a mitigation proposal that will offset the loss of waters of the U.S.

44. *Mining Activities.*

* Buffalo District is proposing the suspension of this NWP.

General Conditions:

Notifications for all Nationwide Permits must include a location map (such as a USGS topographical map).

Notification is required for all activities in State Wild and Scenic Rivers.